

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

DEREK Q. JAMES,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 4:06CV979 RWS
	)	
	)	
DAVE DORMIRE,	)	
	)	
Respondent.	)	

**MEMORANDUM AND ORDER**

This matter is before me on the petition for writ of habeas corpus filed by petitioner Derek Q. James. I referred this matter to United States Magistrate Judge Thomas C. Mummert, III for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On August 19, 2009, Judge Mummert filed his recommendation that petitioner's habeas petition should be denied.

Petitioner objects to the Report and Recommendation. In his objections, petitioner merely restates the arguments made in support of his habeas petition. I have conducted a de novo review of the entire file, including all matters relevant to the petition. After careful consideration, I will adopt and sustain the thorough reasoning of Magistrate Judge Mummert and will deny petitioner's habeas petition.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir.

1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994). Petitioner has not made such a showing. Therefore, I will not issue a certificate of appealability.

Accordingly,

**IT IS HEREBY ORDERED** that the Report and Recommendation filed on August 19, 2009 [#72] is adopted and sustained in its entirety.

**IT IS FURTHER ORDERED** that petitioner's objections to the Report and Recommendation [#75] are overruled in their entirety.

**IT IS FURTHER ORDERED** that Petitioner Derek Q. James' Petition for Writ of Habeas Corpus [#3] is **DENIED**.

**IT IS FURTHER ORDERED** that the Court will not issue a certificate of appealability.

A separate judgment in accordance with this Memorandum and Order is entered this same date.

A handwritten signature in black ink, appearing to read "Rodney W. Sippe", written over a horizontal line.

RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 1st day of September, 2009.